

**MURRAY CITY CORPORATION
COMMERCIAL DRIVER LICENSE (CDL)
DRUG AND ALCOHOL POLICY**

Revised May, 2005

POLICY STATEMENT

This is to reiterate, and state in a formal way, our policy regarding the use of alcohol and drugs in our work place or off City premises while conducting City business. Employees are expected and required to report to work on time and in suitable mental and physical condition for work. It is our intent and obligation to provide a healthy, safe, and drug-free work environment.

The unlawful manufacture, distribution, possession, or use of a controlled substance and/or alcohol on City premises or while conducting City business off City premises is prohibited. Violation of this policy will result in disciplinary action, up to and including termination, and may have legal consequences.

The City recognizes alcohol and drug abuse as a potential health and safety issue and encourages employees to seek help. A conscientious effort to seek such help, by itself, will not jeopardize any employee's job. Employees must, as a condition of employment, abide by the terms of the above policy and report any conviction under a criminal drug statute for violations occurring on or off City premises while conducting City business. A report of a conviction must be made within five (5) days after the conviction.

DEFINITION

FOR PURPOSES OF THIS POLICY:

EMPLOYEE AND PROSPECTIVE EMPLOYEE DEFINITIONS

- A. "Employee" means any person in the service of the City for compensation who operates a commercial motor vehicle in interstate or intrastate commerce, and is subject to the commercial driver's license requirements of Title 49 Code of Federal Regulations, Part 383.
- B. "Prospective employee" means any person who has made application for employment with the City who will operate a commercial motor vehicle in interstate or intrastate commerce, and is subject to the commercial driver's license requirements of Title 49 Code of Federal Regulations, Part 383.
- C. All employees who are required to have a commercial driver license (CDL) and "perform safety-sensitive functions" are subject to testing under this policy.

SAFETY-SENSITIVE FUNCTIONS, DRIVING TIME DEFINITIONS

- A. "Safety-sensitive functions" means any of those on-duty functions set forth in Title 49 Code of Federal Regulations, Part 395.2 On-Duty Time, Paragraphs (1) through (7). On Duty Time, Paragraphs (1) through (7) means all time from the time a driver begins to

work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. On-Duty time shall include:

- (1) All time at a City facility or other public property, or on any private property, waiting to be dispatched, unless the driver has been relieved from duty by the City.
- (2) All time inspecting equipment as required by Title 49 Code of Federal Regulations, Part 392.7 and 392.8 or otherwise inspecting, servicing, or conditioning any City motor vehicle at any time;
- (3) All driving time as defined in the term driving time;
- (4) All time, other than driving time, in or upon any City motor vehicle.
- (5) All time loading or unloading a vehicle, supervising or assisting the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded;
- (6) All time spent performing the driver requirements of Title 40 Code of Federal Regulations, Part 392.40 and 392.41 relating to accidents;
- (7) All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

- B. "Driving Time" means all time spent at the driving controls of a City motor vehicle in operation.

ALCOHOL TESTING DEFINITIONS

- A. "Alcohol" means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.
- B. "Alcohol Use" means the consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.
- C. "Alcohol Concentration (or content)" means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath testing device.
- D. "Evidential Breath Testing Device" means a device approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath and placed on NHTSA's "Conforming Products List of evidential breath measurement devices (CPL)", "and identified on the CPL as conforming with the model specifications available from the National Highway Traffic Safety Administration, Office of Alcohol and State Programs".

- E. "Screening Alcohol Test" means an analytic procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath specimen.
- F. "Confirmation Alcohol Test" means a second test, following a screening test with a result of 0.02 or greater, that provides quantitative data of alcohol concentration.

DRUG TESTING DEFINITIONS

- A. "Illegal Drugs" means a controlled substance included in Schedule I or II, as defined by Section 802(6) of Title 21 of the United States Code, the possession of which is unlawful under Chapter 13 of the Title. The term "Illegal Drugs" does not mean the use of a controlled substance pursuant to a valid prescription or other use authorized by law.
- B. "Drug Test" means analysis of a urine sample for the presence of "illegal drugs" provided by an "employee" or "prospective employee".
- C. "Screening Drug Test" means an immunoassay screen to eliminate "negative" urine specimens for further analysis.
- D. "Confirmation Drug Test" means a second analytical procedure to identify the presence of a specific drug or metabolite that is independent of the screening test and that uses a different technique and chemical principle from that of the screening test in order to ensure reliability and accuracy.
- E. "Verified Negative Drug Test" means a drug test result that was negative on an initial FDA approved immunoassay test (screening drug test), and reviewed and verified by the medical review officer in accordance with this plan and the mandatory guidelines under Title 49 Code of Federal Regulations Part 40 - procedures for transportation workplace drug and alcohol testing programs.
- F. "Verified Positive Drug Test" means a test result that was positive on an initial FDA approved immunoassay test (SCREENING DRUG TEST), confirmed by a gas chromatography/ mass spectrometry assay, (CONFIRMATION DRUG TEST), and reviewed and verified by the medical review officer in accordance with this plan and the mandatory guidelines under Title 49 Code of Federal Regulations Part 40 - procedures for transportation workplace drug and alcohol testing programs.

The "screening drug test" and "confirmation drug test" cutoff levels for the "illegal drugs" are listed below.

<u>DRUG</u>	<u>SCREENING CUTOFF</u>	<u>CONFIRMATION CUTOFF</u>
Cannabinoids as Carboxyl-THC (Marijuana)	50 NG/ML	15 NG/ML

Cocaine Metabolites as Benzoylecgonine (Cocaine, Crack)	300 NG/ML	150 NG/ML
Phencyclidine (PCP, Angel Dust)	25 NG/ML	25 NG/ML
Opiates (Codeine, Morphine)	2000 NG/ML	2000 NG/ML
Amphetamine (Amphetamine & Methamphetamine)	1000 NG/ML	500 NG/ML

- G. "Split Urine Sample" means a portion of the urine sample provided by the donor at the time of collection, poured into a separate specimen bottle, sealed in the presence of the donor, and shipped to the primary laboratory. If the primary sample tested positive for the presence of the drug(s) defined in "F. VERIFIED POSITIVE DRUG TEST" the donor can request analysis of the "split sample" if he/she notifies the medical review officer within 72 hours of notification of a positive drug test.

DRUG AND ALCOHOL TESTING DEFINITIONS

- A. **"Pre-employment Testing"** means testing prior to the first time a driver performs safety sensitive functions for the City, the driver shall undergo testing for drugs. The City is not required to administer a controlled substances test if it meets the exceptions for pre-employment testing outlined in Title 40 Code of Federal Regulations, Part 382.301, Pre-Employment testing.
- B. **"Random Test"** means a system of drug and/or alcohol testing imposed without individualized suspicion that a particular individual is using illegal drugs, and may be:
1. A statistically random sampling of such employees based on a neutral criterion, such as social security numbers. The City shall ensure that random alcohol and drug tests conducted under this testing method are unannounced and that the dates for testing are spread reasonably throughout the calendar year.

The minimum annual percentage rate for random illegal drug testing shall be 50 percent of the average number of driver positions.

The minimum annual percentage rate for random alcohol testing shall be 10 percent of the average number of driver positions.

The minimum annual percentage rate for random drug and alcohol testing may be increased or decreased by the Federal Highway Administration based on the reported violation rate

for the entire trucking industry.

The City shall require that each driver who is notified of selection for random alcohol and/or drug testing shall be escorted by a supervisor to the collection facility immediately; provided, however, if the driver is performing a safety-sensitive function at the time of notification, the City shall instead ensure that the driver ceases to perform the safety-sensitive function and proceeds to the testing facility as soon as possible.

A driver shall only be tested for alcohol while the driver is performing safety-sensitive functions, just before the driver is to perform safety-sensitive functions, or just after the driver has ceased performing such functions.

- C. **"Reasonable Suspicion Testing"** means drug and/or alcohol testing when the City has reasonable suspicion to believe that the driver has violated the prohibitions of this policy concerning drug and/or alcohol use. Reasonable suspicion of drug and/or alcohol use shall be based on a specific, contemporaneous event or observation that suggests recent drug and/or alcohol use. Reasonable cause testing shall be obtained only after the covered employee's supervisor or City official (trained in detecting the indicators of drug and/or alcohol use in accordance with Title 49 Code of Federal Regulations, Part 382.603) has reviewed all information, facts, and circumstances leading to and supporting the reasonable cause. A written record shall be made of the observations leading to the reasonable suspicion testing and signed by the supervisor, department/ division head, Human Resource Director, or City Attorney or designee prior to testing. All employees tested under this provision shall be escorted by a supervisor to the collection site and then removed from the covered safety-sensitive position until the results of the drug screen and/or alcohol test are reviewed by at least two of the above designated management officials. **The employee shall be assisted in getting home after they have returned from the collection site.**

Alcohol testing is authorized under reasonable suspicion only if the observations required by this testing method are made during, just preceding, or just after the period of the work day that the driver is required to be in compliance. (On-Duty time). A driver may be directed by the City to undergo reasonable suspicion testing only while the driver is performing safety-sensitive functions, just before the driver is to perform safety-sensitive functions, or just after the driver has ceased performing such functions. The City shall not take any disciplinary action under this section against a driver based solely on the driver's behavior and appearance, with respect to alcohol use, in the absence of an alcohol test.

- D. **"Post Accident Testing"** means as soon as practicable following an "accident" involving a City motor vehicle, the City shall test for alcohol and drugs any driver:
- (1) who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or
 - (2) who receives a citation under State or Local Law for a moving traffic violation arising from the accident.

"Accident" means an occurrence involving a City motor vehicle operating on a public road which results in: 1) a fatality; 2) bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or 3) one or more motor vehicles incurring disabling damage as a result of the accident, requiring the vehicle (any of the vehicles involved) to be transported away from the scene by a tow truck or other vehicle.

The driver to be tested shall be escorted to the collection site by a supervisor as soon as practical following the accident.

The results of a breath test for the use of alcohol and a urine test for the use of controlled substances conducted by Federal, State, or Local Officials having independent authority for the test, shall be considered to meet the requirements of Title 49 Code of Federal Regulations, Part 382.303, provided such tests conform to applicable federal, state, or local requirements, and that the results of the tests are obtained by the City.

- E. **"Return to Duty Testing"** means drug and/or alcohol testing required before the driver returns to duty requiring the performance of a safety-sensitive function after engaging in conduct prohibited by this policy. The driver shall be escorted to the collection site by a supervisor.

An alcohol test conducted under return to duty testing shall have a result indicating an alcohol concentration of less than 0.02 grams of alcohol per 210 liters of breath.

A drug test conducted under return to duty testing shall have a result indicating a verified negative result.

- F. **"Follow-up Testing"** means testing required following a determination under Title 49 Code of Federal Regulations, Part 382.605(b) that a driver is in need of assistance in resolving problems associated with alcohol misuse and/or illegal drugs. The City shall ensure that the driver is subject to unannounced follow-up alcohol and/or illegal drug testing as directed by a substance abuse professional at least six (6) times during the following twelve(12) months in accordance with the provisions of Title 49 Code of Federal Regulations, Part 382.605 © (2) (ii).

Follow-up alcohol testing shall be conducted only when the driver is performing safety-sensitive functions, just before the driver is to perform safety-sensitive functions, or just after the driver has ceased performing safety-sensitive functions. The driver shall be escorted to the collection site by a supervisor.

OTHER DEFINITIONS

- A. **"Supervisor"** means an employee having authority to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove other employees, to adjust their grievances, or to effectively recommend such action.
- B. **"Medical Review Officer"** means the individual responsible for receiving laboratory results generated from the City drug testing program who is a licensed physician with knowledge of substance abuse disorders and the appropriate medical training to interpret and evaluate all positive test results together with an individual's medical history and other relevant biomedical information. The medical review officer shall make the decision when a driver may return to duty following a driver's violation of prohibitions of this policy.
- C. **"Employee Assistance Program"** means a counseling program that offers assessment, short-term counseling, and referral services to employees for a wide range of drug, alcohol, and mental health problems, and monitors the progress of employees while in treatment. The employee is not responsible for the cost of services for counseling and treatment services provided by the EAP program. Participation in an employee assistance program is voluntary, however, the City may require participation as a condition of continued employment.
- D. **"Substance Abuse Professional"** means a licensed physician (medical doctor or doctor of osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional or addiction counselor (Certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances related disorders. The City shall not permit a driver who has engaged in conduct prohibited by 49 Code of Federal Regulations, Part 382, Subpart B and this policy to perform safety-sensitive functions until he/she has been evaluated by a substance abuse professional.

PROHIBITIONS

The following prohibitions reflect Title 49 Code of Federal Regulations, Parts 382.201, 382.204, 382.205, 382.207, 382.209, 382.211, 382.213, and 382.215.

ALCOHOL CONCENTRATION (382.201)

No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater. No employer having actual knowledge that a driver has an alcohol concentration of 0.04 or greater shall permit the driver to perform or continue to perform safety-sensitive functions.

ALCOHOL POSSESSION (382.204)

No driver shall be on duty or operate a City motor vehicle while that driver possesses alcohol. No employer having actual knowledge that a driver possesses alcohol may permit that driver to drive or continue to drive a City motor vehicle.

ON-DUTY USE (382.205)

No driver shall use alcohol while performing safety-sensitive functions. No employer having actual knowledge that a driver is using alcohol while performing safety-sensitive functions shall permit the driver to perform or continue to perform safety-sensitive functions.

PRE-DUTY USE (382.207)

No driver shall perform safety-sensitive functions within four hours after using alcohol. No employer having actual knowledge that such a driver has used alcohol within four hours shall permit a driver to perform or continue to perform safety-sensitive functions.

USE FOLLOWING AN ACCIDENT (382.209)

No driver required to take a post-accident alcohol test under Title 49 Code of Federal Regulations, Part 382.303, shall use alcohol for eight hours following the accident, or until he/she undergoes a post-accident alcohol test, whichever occurs first.

REFUSAL TO SUBMIT TO A REQUIRED ALCOHOL OR CONTROLLED SUBSTANCES TEST (Illegal Drug Test) 382.211)

No driver shall refuse to submit to a post-accident alcohol or controlled substance (Illegal drugs) test required under Title 49 Code of Federal Regulations, Part 382.303, a random alcohol or controlled substance (Illegal Drugs) test required under Title 49 Code of Federal Regulations, Part 382.305, a reasonable suspicion alcohol or controlled substances (drug) test required under Title 49 Code of Federal Regulations, Part 382.307, or a follow-up alcohol or controlled substances (illegal drugs) test required under Title 49 Code of Federal Regulations, Part 382.311. No employer shall permit a driver who refuses to submit to such tests to perform or continue to perform safety-sensitive functions. The following examples constitute a refusal to be tested for alcohol and/or controlled substances (Illegal drugs):

BY ALCOHOL TESTING, REFUSAL BY AN EMPLOYEE TO:

1. Sign the breath alcohol form. (Step 2)
2. Provide breath or provide adequate breath without a valid medical explanation.
3. Cooperate with the testing process in a way that prevents the completion of the test.

CONTROLLED SUBSTANCES (ILLEGAL DRUGS), REFUSAL BY AN EMPLOYEE TO:

1. Provide a urine sample.
2. Provide an adequate urine sample without a valid medical explanation.
3. Cooperate with the testing process in a way that prevents the completion of the test.

CONTROLLED SUBSTANCE USE (382.213)

(A) No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any controlled substance, except when the use is

pursuant to the instructions of a physician who has advised the driver that the substance does not adversely affect the driver's ability to safely operate a City motor vehicle.

(B) No employer having actual knowledge that a driver has used a controlled substance shall permit the driver to perform or continue to perform a safety-sensitive function.

C) An employer may require a driver to inform the employer of any therapeutic drug use.

CONTROLLED SUBSTANCES TESTING (382.215)

No driver shall report for duty, remain on duty or perform a safety-sensitive functions, if the driver tests positive for controlled substances (illegal drugs). No employer having actual knowledge that a driver has tested positive for controlled substances (illegal drugs) shall permit the driver to perform or continue to perform safety-sensitive functions.

TESTING

The City intends to test employees and/or prospective employees for the presence of drugs and/or alcohol, in accordance with the provisions of this policy. An employee who refuses to be tested when so required will be subject to the full range of disciplinary action, including dismissal. Attempts to alter or substitute a urine specimen provided will be deemed a refusal to take the drug test when required.

Drug and/or alcohol tests shall be given under the following circumstances:

A. PRE-EMPLOYMENT DRUG TESTING

B. RANDOM DRUG TESTING

C. REASONABLE SUSPICION DRUG TESTING **if an alcohol test required by this method is not administered within two hours following the determination to test, the City shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If an alcohol test required by this method is not administered within eight hours following the determination to test, the City shall cease attempts to administer an alcohol test and shall state in the record the reasons for not administering the test**

D. POST ACCIDENT TESTING** if an alcohol test required by this method is not administered within two hours following the determination to test, the City shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If an alcohol test required by this method is not administered within eight hours following the determination to test, the City shall cease attempts to administer an alcohol test and shall state in the record the reasons for not administering the test. If a drug test required by this method is not administered within 32 hours following the accident, the City shall cease attempts to administer a drug test, and shall state in the record the reasons for not administering the test**.

E. RETURN TO DUTY TESTING

F. FOLLOW-UP TESTING

NOTEIf the employee is unable to provide the required quantity of urine (45ML) for testing, the collection site person shall instruct the employee to drink not more than 24 ounces of fluid and, after a period of up to two hours, again attempt to provide a complete sample. If the employee is still unable to provide an adequate specimen, testing will be discontinued, and the City shall be notified. The City shall notify the medical review officer and the medical review officer shall refer the individual for a medical evaluation to determine pertinent information concerning whether the individual's inability to provide a specimen is genuine or constitutes a refusal to test. (In pre-employment testing, if the City does not wish to hire the individual, the medical review officer is not required to make such a referral.) Upon completion of the examination, the medical review officer shall report his or her conclusions to the City in writing.

PROCEDURES USED TO TEST FOR THE PRESENCE OF ALCOHOL AND CONTROLLED SUBSTANCES (ILLEGAL DRUGS)

Alcohol and controlled substances (illegal drug) testing conducted under this policy shall meet or exceed the procedures found in Title 49 Code of Federal Regulations, Part 40, Procedures for transportation workplace drug and alcohol testing programs. A copy of this title shall be maintained by the Human Resource Director and shall be made available to any driver upon request.

POSSESSION

No employee shall have illegal drugs and/or alcohol in their possession while on City premises, or while operating the City vehicle.

CONSEQUENCES FOR DRIVERS ENGAGING IN SUBSTANCE USE-RELATED CONDUCT

REMOVAL FROM SAFETY-SENSITIVE FUNCTIONS

No driver shall perform safety-sensitive functions, including driving a City vehicle, if the driver has engaged in conduct prohibited by this policy: Title 49 Code of Federal Regulations, Part 382, Subpart B - Prohibitions; or an alcohol or controlled substances rule of another DOT agency.

The City shall not permit any driver to perform safety-sensitive functions, including driving a City vehicle, if the City has determined that the driver has engaged in conduct prohibited by this policy; Title 49 Code of Federal Regulations, Part 382, Subpart B - prohibitions; or an alcohol or controlled substances rule of another DOT agency.

For purposes of this section, City vehicle means a commercial motor vehicle as defined in Title 49 Code of Federal Regulations, Part 382.107, and a commercial motor vehicle in Interstate Commerce as defined in Part 390.

REQUIRED EVALUATION AND TESTING

No driver who has engaged in conduct prohibited by this policy; Title 49 Code of Federal Regulations, Part 382, Subpart B - Prohibitions, shall perform safety-sensitive functions, including driving a City vehicle, unless the driver has met the requirements of Title 49 Code of Federal Regulations, Part 382.605

The City shall not permit a driver who has engaged in conduct prohibited by this policy; Title 49 Code of Federal Regulations, Part 382, Subpart B - Prohibitions, shall perform safety-sensitive functions, including driving a City vehicle, unless the driver has met the requirements of Title 49 Code of Federal Regulations, Part 382.605.

OTHER ALCOHOL-RELATED CONDUCT

No driver tested under this policy who is found to have an alcohol concentration of 0.02 or greater but less than 0.04 shall perform or continue to perform safety-sensitive functions for the City, including driving a City vehicle, nor shall the City permit the driver to perform or continue to perform safety-sensitive functions, until the start of the driver's next regularly scheduled duty period, but not less than 24 hours following the administration of the test.

Except as provided in this section, the City shall not take any action under this section against a driver solely on test results showing an alcohol concentration less than 0.04.

CITY ACTION

Upon receipt of a verified or confirmed positive drug or alcohol test result which indicates a violation of this policy, or upon the refusal of an employee or prospective employee to provide a sample, the City may use that test result or refusal as the basis for disciplinary or rehabilitative actions, which may include the following:

- A. Evaluation by a substance abuse professional to determine what assistance, if any, the employee needs in resolving problems associated with alcohol misuse and controlled substances use.
 - B. A requirement that the employee enroll in a City approved employee assistance program which may include additional drug and alcohol testing, as a condition of continued employment;
 - C. Suspension of the employee with or without pay for a period of time;
 - D. Termination of employment; It is the preference of Murray City to seek rehabilitation of an employee after a first violation. Nothing in this policy shall be construed to require the City to offer rehabilitation in all cases of a first time violation. Each case shall be examined on its own facts and the result will be based on that analysis. Depending upon the mitigating and aggravating factors in a given case, termination of employment may be entirely justified, when based upon the recommendation of the employee's department and division head.
- However, upon a second violation at any time during the employee's employment with the City, termination of employment shall result.

E. Refusal to hire a prospective employee; or

F. Other disciplinary measures in conformance with the City's usual policies and procedures.

The City shall not permit a driver who has engaged in conduct prohibited by Title 49 Code of Federal Regulations, Part 382, Subpart B and this policy to perform safety-sensitive functions until he/she has been evaluated by a substance abuse professional and has completed a return to duty alcohol and/or drug test with negative result.

MEDICAL REVIEW OFFICER RESPONSIBILITIES AND ACTIONS, LABORATORY CONFIRMED POSITIVE DRUG TEST, URINE DRUG SPLIT SAMPLE REQUEST, SPLIT SAMPLE TESTING PROCEDURE.

The medical review officer shall review all urine drug tests generated by this policy in compliance with Title 49 Code of Federal Regulations, Part 40 - procedures for transportation workplace drug and alcohol testing programs.

NEGATIVE DRUG TEST RESULTS

The responsibilities of the medical review officer with respect to negative drug test results are purely administrative.

CONFIRMED POSITIVE DRUG TEST RESULTS

The responsibilities of the medical review officer with respect to a confirmed positive drug test result is to review and interpret the drug test result. In carrying out this responsibility, the medical review officer shall examine alternate medical explanations for any positive test result. This action may include conducting a medical interview and review of the individual's medical history, or review of any other relevant biomedical factors.

The medical review officer shall contact the individual directly, on a confidential basis, to determine whether the employee wishes to discuss the test result. A staff person under the medical review officer's supervision may make the initial contact, and a medically licensed or certified staff person may gather information from the employee. The medical review officer shall talk directly with the individual before verifying a test as positive to discuss the test results with him/her.

If, after making all reasonable efforts and documenting them, the medical review officer is unable to contact the individual directly, the medical review officer shall contact the Human Resource Director who shall direct the individual to contact the medical review officer as soon as possible.

If the individual provides a legitimate explanation for the confirmed positive drug test, verified by the medical review officer, the medical review officer declares the test to be negative.

Following verification of a positive test result, the medical review officer shall notify the individual that he/she has 72 hours from the time of notification to request a test of the split urine sample. If the individual requests an analysis of the split sample within 72 hours of having been informed of a verified positive test, the medical review officer shall direct, in writing, the laboratory to provide the split specimen to the designated secondary laboratory for analysis. If the analysis of the split specimen fails to confirm the presence of the drug(s) or drug metabolite(s) found in the primary specimen, or if the split specimen is unavailable, inadequate for testing or untestable, the medical review officer shall cancel the test and report cancellation and the reasons for it to the DOT, the City, and the individual. ****Note**** A request to test the split specimen does not defer the reporting of the verified positive test result to the Human Resource Director.

Following verification of a positive test result, the medical review officer shall, as provided in the City's policy, refer the case to the City's employee assistance program and to the management official empowered to recommend or take administrative action.

Upon receipt of a verified or confirmed positive drug test result which indicates a violation of this policy, the medical review officer shall report the drug screen result to the Human Resource Director with the following statement:

THE ABOVE NAMED DRIVER IS MEDICALLY UNQUALIFIED TO OPERATE A CITY VEHICLE (49 CFR Part 391.95, DRUG USE PROHIBITIONS).

If a driver has been medically unqualified, he/she must be medically qualified and retested before he/she can operate a City vehicle. The medical review officer will consult with the management of the City and the substance abuse professional to make the determination when to retest the individual driver after completion of the evaluation by the substance abuse professional.

SPLIT SAMPLE PROCEDURE

The City shall pay for the cost of the split sample analysis requested by the driver. The sample shall be sent to the City's secondary laboratory as defined by this policy. If the split sample analysis confirms the result of the primary laboratory, the City reserves the right to assess the costs associated with the split sample analysis to the driver requesting the analysis.

RELEASE OF ALCOHOL AND CONTROLLED SUBSTANCES TEST INFORMATION

This section details how and when the City shall release records pertaining to the alcohol and/or controlled substances test conducted under this policy. The release of driver's drug and alcohol

test are authorized under Title 49 Code of Federal Regulations, Part 382, Subpart D - Handling of test results, records retention and confidentiality.

A driver is entitled, upon written request, to obtain copies of any records pertaining to the driver's use of alcohol or controlled substances, including any records pertaining to his or her alcohol or controlled substances test. The Human Resource Director shall promptly provide the records requested by the driver. Access to a driver's records shall not be contingent upon payment for records other than those specifically requested (individual drug and/or alcohol test records).

The Human Resource Director shall make available copies of all results for employer alcohol and/or controlled substances testing conducted under this part and any other information pertaining to the employer's alcohol misuse and/or controlled substances use prevention program, when requested by the secretary of transportation, any DOT agency, or any state or local officials with regulatory authority over the City or any of its drivers.

When requested by the National Transportation Safety Board as part of an accident investigation, the Human Resource Director shall disclose information related to the City's administration of a post-accident alcohol and/or controlled substances test administered following the accident under investigation.

Records shall be made available to a subsequent employer upon receipt of a written request from the driver. Disclosure by the subsequent employer is permitted only as expressly authorized by the terms of the driver's request.

The Human Resource Director may disclose information required to be maintained under Title 49 Code of Federal Regulations, Part 382, Subpart D - Handling of test results, record retention and confidentiality, pertaining to a driver, to the decision maker in a lawsuit, grievance, or other proceedings initiated by or on behalf of that driver, and arising from the results of an alcohol and/or controlled substances test administered under this part, or from the City's determination that the driver engaged in conduct prohibited by Subpart B of Part 382 (including, but not limited to, a worker's compensation, unemployment compensation, or other proceeding related to a benefit sought by the driver).

The City shall release information regarding a driver's record as directed by the specific, written consent of the driver authorizing release of the information to an identified person. Release of such information by the person receiving the information is permitted only in accordance with the terms of the employee's consent.

Except as otherwise provided in this policy or federal statute or rule, all records which are created pursuant to this policy and which pertain to an employee are hereby classified as controlled records as provided in the Governmental Records Access and Management Act, Title 63, Chapter 2 of the Utah State Code.

RETENTION OF RECORDS

The Human Resource Department shall maintain records of its alcohol misuse and controlled substances use prevention programs as provided in this section. The records shall be maintained in a secure location with controlled access.

The Human Resource Department shall maintain the records in accordance with the following schedule:

FIVE YEARS

1. Records of driver alcohol test results with results indicating an alcohol concentration of 0.02 or greater.
2. Records of driver verified positive controlled substances test results.
3. Documentation of refusals to take required alcohol and/or controlled substances tests.
4. Calibration documentation (breath alcohol testing devices)
5. Driver evaluation and referrals (alcohol and controlled substances).
6. A copy of each annual calendar year summary required by Title 49 Code of Federal Regulations, Part 382.403.

TWO YEARS

1. Records relating to the alcohol and controlled substances collection process (except calibration of evidential breath testing devices) and training.

ONE YEAR

1. Records of negative and canceled controlled substances test results (as defined in Title 49 Code of Federal Regulations, Part 40) and alcohol test results with a concentration of less than 0.02.

TYPE OF RECORDS

All records required under Title 49 Code of Federal Regulations, Part 382, Subpart D - Handling of test results, record retention and confidentiality shall be maintained.

DESIGNATED CITY OFFICIALS

The Human Resource Director or Safety/Health Manager are the City's designated officials to receive drug and alcohol testing results from the medical review officer and breath alcohol technicians conducting tests under this policy. The Safety Health Manager will maintain copies of all training materials, policies, applicable federal regulations, and will be available to answer questions regarding these materials from anyone required to comply with this policy.

Mr. Mike Terry
Human Resource Director
264-2656

Mr. Glen Sidwell
Safety/Health Manager
264-2658

ALTERNATE DESIGNATED CITY OFFICIAL(S)

Mr. Frank M. Nakamura
City Attorney
264-2640

MEDICAL REVIEW OFFICER

Dr. Mark Anderson
Work Care
2390 S Redwood Road
SLC UT
Telephone Number: 975-1600

SUBSTANCE ABUSE PROFESSIONAL

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Murray, UT 84107
269-2886

WorkCare
2390 South Redwood Rd.
SLC, UT 84119
975-1600

DRUG TESTING LABORATORIES

PRIMARY LABORATORY:

Lab One
Lenexa , KS

SECONDARY LABORATORY (Second SAMHAS-Certified Laboratory for Testing split samples):

Northwest Toxicology
Salt Lake City, UT

POLICY EFFECTIVE DATE: January 1, 1995 (Revised 06/2008)